

DOCKET NO.: M6712 HST/NI PCT/US (HENK-0050)
Application No.: 09/914,701
Office Action Dated: September 21, 2006

**PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116**

REMARKS

Claims 1, 6-11, 13 and 15-25 are pending. As an initial matter, Applicants appreciate the Examiner's willingness and time in discussing the non-prior art status of the primary reference (as discussed in more detail below) and acknowledge the request to submit a certified English translation of Applicants' priority document, which is enclosed herewith. A Request for Continued Examination is also filed herewith.

Claims 1, 6-10, 13, 15-17, 19-20 and 22-25 stand rejected under 35 U.S.C. §103(a) "§103(a)" over U.S. Pat. No. 6,235,180 B1 ("the Kobayashi reference"). Dependent claims 11, 18 and 21 stand rejected under §103(a) over a combination of the Kobayashi reference, U.S. Pat. No. 4,517,030 ("the Yamamoto reference") and U.S. Pat. No. 5,152,849 to Bittner ("the Bittner reference").

The Kobayashi reference does not qualify as prior art to the present application. The Kobayashi reference issued on May 22, 2001, was filed on June 30, 1999, and claims priority to a Japanese application filed on July 1, 1998. No benefit of the filing date of the foreign application is given under 35 U.S.C. §102(e) for prior art purposes (see MPEP section 706.02(f)(1)(II). Examples, Example 3). Instead, the Kobayashi reference would be accorded its U.S. filing date as its prior art date under 35 U.S.C. §102(e). Because the present application claims priority to JP H11-54834, filed March 2, 1999, the Kobayashi reference does not qualify as prior art. As requested by the Examiner, enclosed herewith is a certified copy of an English translation of Applicants' priority document.

Given that the primary Kobayashi reference does not qualify as prior art, the combination of the Kobayashi reference with the Yamamoto and Bittner references cannot support the rejection of dependent claims 11, 18, and 21, which depend from and further limit the independent claims.

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Accordingly, Applicants respectfully request that the Office withdraw its rejections and issue a notice of allowance in this case.

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/Joseph Milowic III/
Joseph Milowic III
Registration No. 52,034

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439